

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT

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DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

November 16, 2007

To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled "An Act Financing the Production and Preservation of Housing for Low and Moderate Income Residents".

Accessible affordable housing is a necessary foundation to stimulating economic development and providing quality education. Due to the Commonwealth's unique market conditions, the private sector alone cannot solve our affordable housing problem. State capital investments are essential for both new production and the preservation of existing affordable housing. Accordingly, this legislation authorizes the Commonwealth to issue up to \$1.090 billion in general obligation bonds to fund the housing capital needs of the Commonwealth over the next five years. Specifically, this bill includes:

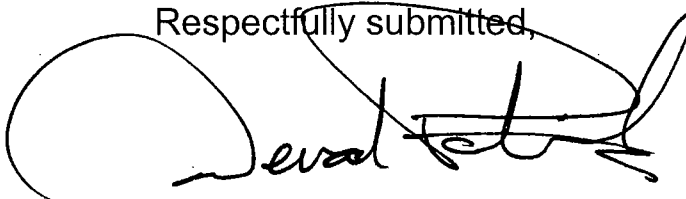
- \$500 million for the preservation and development of public housing for families, the elderly, and those with special needs.
- \$200 million for the Affordable Housing Trust Fund to create and preserve affordable housing in the Commonwealth.
- \$175 million for the Housing Stabilization Fund to acquire, preserve, and rehabilitate affordable housing, including foreclosed and distressed properties.

We can afford to make this five-year, \$1.090 billion investment in affordable housing related programs, based on the Administration's



five-year capital investment plan and the related debt affordability analysis published last August. In light of the urgent need to address the need for affordable housing in the Commonwealth, I respectfully request that you take prompt action to enact this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald E. F. [unclear]", written over the text "Respectfully submitted,".



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND SIX

AN ACT FINANCING THE PRODUCTION AND PRESERVATION OF HOUSING FOR LOW AND MODERATE INCOME RESIDENTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the financing of the production and preservation of housing for low and moderate income citizens of the commonwealth and to make related changes in certain laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. To provide for a capital outlay program to rehabilitate, produce and modernize state-owned public housing developments; to preserve the affordability and the income mix of state-assisted multifamily developments; to support home ownership and rental housing opportunities for low and moderate income citizens of the commonwealth; to stem urban blight through the implementation of housing stabilization programs; to support housing production for the elderly, disabled and homeless; to preserve housing for the elderly, the homeless, low and moderate income citizens of the commonwealth, and people with disabilities; and to promote economic reinvestment through the funding of infrastructure improvements, the sums set forth in section 2, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the laws regulating the disbursement of public funds, which sums are in addition to amounts previously appropriated for these purposes.

SECTION 2.

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Department of Housing and Community Development

7004-7100 For a program of loan guarantees or interest subsidies to assist homeowners with blindness or severe physical disabilities in making modifications to their primary residence for the purpose of improved accessibility or to allow such homeowners to live independently in the community; provided, that these loan guarantees or interest subsidies shall be available on the basis of a sliding scale that relates homeowner's income and assets to the cost of home modifications; provided further, that loan guarantees or interest subsidies shall be means-tested and may be for 0-interest loans pursuant to income standards developed by the secretary of health and human services; provided further, that the repayment of any such loans may be delayed until the sale of the principal residence by any such homeowner; provided further, that persons residing in any development covered by section 4 of chapter 151B of the General Laws shall not be eligible for this program unless the owner can show that the modification is an undue financial burden; provided further, that the secretary of health and human services shall consult with the Massachusetts commission for the blind and the Massachusetts rehabilitation commission in developing the rules, regulations and guidelines for this program; provided further, that nothing in this item shall give rise to enforceable legal rights in any party or an enforceable entitlement to services..... \$30,000,000.

7004-7200 For state financial assistance in the form of loans for the development and redevelopment of community-based housing for the mentally ill and mentally retarded, under section 60 of chapter 121B of the General Laws; provided, that expenditures from this item shall not be made for the purpose of refinancing outstanding mortgage loans for community-based housing in existence before the effective date of this act \$40,000,000.

7004-7300 For state financial assistance in the form of loans for the development and redevelopment of community-based housing for persons with disabilities who are institutionalized or at risk of being institutionalized, under section 61 of chapter 121B of the General Laws; provided, that expenditures from this item shall not be made for the purpose of refinancing outstanding mortgage loans for community-based housing in existence before the effective date of this act\$30,000,000.

7004-7400 For the capitalization of the Affordable Housing Trust Fund, established by chapter 121D of the General Laws.....\$200,000,000.

7004-7500 For the purpose of state financial assistance in the form of grants or loans for the housing stabilization and investment program established by section 63 of chapter 121B of the General Laws; provided, that not less than \$25,000,000 of these funds shall be used to fund the transit-oriented housing development program; provided further, that

not less than \$30,000,000 of the funds in this item shall be expended for the capital improvement and preservation program\$175,000,000

7004-7600 For state financial assistance in the form of grants for projects undertaken pursuant to section 34, section 41, section 41A, and clause (j) of section 26 of chapter 121B of the General Laws; provided, that contracts entered into by the department for such projects may include, but shall not be limited to, projects providing for the development, construction, renovation, remodeling, redevelopment, reconstruction, and hazardous material abatement, including asbestos and lead paint, and for compliance with state codes and laws and for adaptations necessary for compliance with the Americans with Disabilities Act, the provision of day care facilities, learning centers and teen service centers and the adaptation of units for families and persons with disabilities; provided further, that priority shall be given to projects undertaken for the purpose of compliance with state codes and laws or for other purposes related to the health and safety of residents; provided further, that funds may be expended from this item to make such modifications to congregate housing units as may be necessary to increase the occupancy rate of such units; provided further, that the department, in consultation with housing authorities, may establish a program to provide predictable funds to be used flexibly by housing authorities to provide for capital improvements to extend the useful life of state-assisted public housing; and provided further, that not less than 25 per cent of the amount appropriated in this item shall be used to fund projects which preserve and produce housing for families and individuals with incomes of not more than 30 per cent of the area median income, as defined by the United States Department of Housing and Urban Development..... \$500,000,000.

7004-7700 For the purpose of state financial assistance in the form of community development action grants to be administered under section 57A of chapter 121B of the General Laws..... \$55,000,000.

7004-7800 For the purpose of state financial assistance in the form of grants or loans for the Housing Innovations Fund Program established pursuant to section 62 of chapter 121B of the General Laws; provided, that expenditures from this item shall not be made for the purpose of refinancing outstanding mortgage loans for housing in existence before the effective date of this act unless such housing had previously received funding pursuant to item 3722-8879 of section 3 of chapter 226 of the acts of 1987, item 3722-8899 of section 2 of chapter 494 of the acts of 1993, item 7004-8986 of section 2 of chapter 257 of the acts of 1998, or item 7004-7013 of section 2 of chapter 244 of the acts of 2002..... \$60,000,000.

SECTION 3. To meet the expenditures necessary in carrying out section 2, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$1,090,000,000.. All these bonds issued by the commonwealth shall be

designated on their face, Housing Production, Preservation, Modification and Neighborhood Development Loan Act of 2007, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later than June 30, 2042. All interest and payments on account of principal on such obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 4. Chapter 121B is hereby further amended by adding the following 5 sections:-

Section 60. (a) The department shall administer a program of state financial assistance in the form of loans for the development of community-based housing for the mentally ill and mentally retarded, to be known as the Facilities Consolidation Fund.

(b) The department shall administer this loan program through contracts with authorities, which shall be limited to housing authorities and redevelopment authorities duly organized and existing in accordance with this chapter, the Massachusetts Housing Finance Agency, a body politic and corporate entity established by chapter 708 of the acts of 1966, the Community Economic Development Assistance Corporation, a body politic and corporate entity established by chapter 40H, and the Massachusetts Development Finance Agency, a body politic and corporate entity established by chapter 23G. These loan-issuing authorities may develop or finance this community-based housing, or may enter into subcontracts with non-profit organizations established pursuant to chapter 180 or organizations in which such non-profit corporations have a

controlling financial or managerial interest. These loan-issuing authorities may enter into subcontracts with for-profit organizations for integrated housing as defined by the appropriate state housing and service agencies, including but not limited to the department, the department of mental health, and the department of mental retardation in consultation with relevant and interested clients, their families, advocates, and other parties as necessary.

(c) The department shall take due consideration of a balanced geographic plan for such community-based housing when issuing these loans. The department shall take due consideration of development of a balanced range of housing models by prioritizing funds for integrated housing as defined by the appropriate state housing and service agencies including but not limited to the department, the department of mental health, and the department of mental retardation in consultation with relevant and interested clients, their families, advocates, and other parties as necessary.

(d) Loans issued pursuant to this section shall be subject to the following provisions:

(1) these loans shall be limited to not more than 50 per cent of the financing of the total development costs;

(2) these loans shall be issued only when any contract or agreement for the use of the property for the purposes of such housing provides for repayment to the commonwealth at the time of disposition of the property an amount equal to the commonwealth's proportional contribution under this section to the cost of the development through payments made by the state agency making the contract;

(3) these loans shall be issued only when any contract or agreement for the use of the property for the purposes of such community-based housing provides for the recording of a restriction in the registry of deeds or the registry district of the land court of the county in which the affected real property is located, for the benefit of the departments, running with the land, that the land be used for the purpose of providing community-based housing for eligible individuals as determined by the departments of mental health and mental retardation. The property shall not be released from such restrictions until the balance of the principal and interest for the loan is repaid in full or until a mortgage foreclosure deed is recorded;

(4) these loans shall be issued for a term of up to 30 years, during which time repayment may be deferred by the loan issuing authority unless at the end of any fiscal year, cash collections from all sources in connection with a community-based housing project, except for contributions, donations, or grant moneys, exceed 105 per cent of cash expenditures on behalf of the project, including debt service, operating expenses, and capital reserves, in which event the excess cash shall be paid to the commonwealth within 45 days of the end of that fiscal year, payable first to interest due under the loan and thereafter to principal advanced pursuant to the loan, provided, that if on the date these loans become due and payable to the commonwealth an outstanding balance exists, and if, on that date, the department of housing and community development, in consultation with the executive office of health and human services, determines that there still exists a need for this housing and that there is continued funding available for the provision of services to the development, the department may, by agreement with the owner of the development, extend the loans for such periods, each period not to extend beyond 10

years, as the department determines. The project shall continue to remain affordable housing for the duration of the loan term, as extended, as set forth in the contract or agreement entered into by the department. If the terms of repayment detailed in this section would cause a project authorized by this section to become ineligible to receive federal funds which would otherwise assist in the development of that project, the department may waive the terms of repayment which would cause the project to become ineligible;

(5) interest rates for these loans shall be fixed at a rate, to be determined by the director of the department;

(6) housing projects developed pursuant to this section shall not be refinanced during the term of any loan issued pursuant to this section unless and until the balance of the principal and interest for the loan is repaid in full at the time of the refinancing; but these community-based housing projects may be refinanced if the financing would result in a reduction of costs paid by the commonwealth and any such refinanced loan shall be due and payable on a date no later than the date on which the original loan was due and payable, except in accordance with clause (3), or is necessary to effect extraordinary repairs or maintenance to be approved by the commissioners of mental retardation, or mental health, as appropriate, and the director of the department.

(e) Notwithstanding any other general or special law to the contrary, in the case of (i) integrated housing in which community-based housing units described in this section constitute at least 30 percent of the overall number of housing units in a project or (ii) any other community-based housing described in this section, within 120 days after the expiration of affordability restrictions on housing assisted under this section, the

department or its assignee, who is a qualified developer selected pursuant to the terms of this section under the guidelines of the department, shall have an option to purchase any such property under section 64.

(f) These loans shall be provided only for projects conforming to this section. Such housing shall remain affordable for not less than 40 years.

(g) These loans shall be issued in accordance with a facilities consolidation plan prepared by the secretary of health and human services, reviewed and approved by the director of the department, and filed with the secretary for administration and finance and the house and senate committees on ways and means.

Section 61. (a) The department shall administer a program of state financial assistance in the form of loans for the development and redevelopment of community-based housing for persons with disabilities who are institutionalized or at risk of being institutionalized, and who are not eligible for housing developed under section 60.

(b) The department shall administer this loan program through contracts with authorities, which shall be limited to housing authorities and redevelopment authorities duly organized and existing in accordance with this chapter, the Massachusetts Housing Finance Agency, a body politic and corporate entity established by chapter 708 of the acts of 1966, the Community Economic Development Assistance Corporation, a body politic and corporate entity established by chapter 40H, and the Massachusetts Development Finance Agency, a body politic and corporate entity established by chapter 23G. These loan-issuing authorities may develop or finance this community-based housing, or may enter into subcontracts with non-profit organizations established pursuant to chapter 180 or organizations in which such non-profit corporations have a

controlling financial or managerial interest. These loan-issuing authorities may enter into subcontracts with for-profit organizations for integrated housing as defined by the appropriate state housing and service agencies, including but not limited to the department, the department of mental health, and the department of mental retardation in consultation with relevant and interested clients, their families, advocates, and other parties as necessary.

(c) The department shall take due consideration of a balanced geographic plan for such community-based housing when issuing these loans. The department shall take due consideration of development of a balanced range of housing models by prioritizing funds for integrated housing as defined by the appropriate state housing and service agencies including but not limited to the department, the department of mental health, and the department of mental retardation in consultation with relevant and interested clients, their families, advocates, and other parties as necessary.

(d) Loans issued pursuant to this section shall be subject to the following provisions:

(1) these loans shall be limited to not more than 50 per cent of the financing of the total development costs;

(2) these loans shall be issued only when any contract or agreement for the use of the property for the purposes of such housing provides for repayment to the commonwealth at the time of disposition of the property an amount equal to the commonwealth's proportional contribution from the community-based housing funds to the cost of the development through payments made by the state agency making the contract;

(3) these loans shall be issued only when any contract or agreement for the use of the property for the purposes of such community-based housing provides for the recording of a restriction in the registry of deeds or the registry district of the land court of the county in which the affected real property is located, for the benefit of the departments, running with the land, that the land be used for the purpose of providing community-based housing for eligible individuals as determined by the Massachusetts rehabilitation commission or other agency of the executive office of health and human services. The property shall not be released from such restrictions until the balance of the principal and interest for the loan is repaid in full or until a mortgage foreclosure deed is recorded;

(4) these loans shall be issued for a term of up to 30 years, during which time repayment may be deferred by the loan issuing authority unless at the end of any fiscal year, cash collections from all sources in connection with a community-based housing project, except for contributions, donations, or grant moneys, exceed 105 per cent of cash expenditures on behalf of the project, including debt service, operating expenses, and capital reserves, in which event the excess cash shall be paid to the commonwealth within 45 days of the end of that fiscal year, payable first to interest due under the loan and thereafter to principal advanced pursuant to the loan, provided, that if on the date these loans become due and payable to the commonwealth an outstanding balance exists, and if, on that date, the department of housing and community development, in consultation with the executive office of health and human services, determines that there still exists a need for this housing and that there is continued funding available for the provision of services to the development, the department may, by agreement with the owner of the

development, extend the loans for such periods, each period not to extend beyond 10 years, as the department determines. The project shall continue to remain affordable housing for the duration of the loan term, as extended, as set forth in the contract or agreement entered into by the department. If the terms of repayment detailed in this section would cause a project authorized by this section to become ineligible to receive federal funds which would otherwise assist in the development of that project, the department may waive the terms of repayment which would cause the project to become ineligible;

(5) interest rates for these loans shall be fixed at a rate, to be determined by the director of the department;

((6) community-based housing projects developed pursuant to this section shall not be refinanced during the term of any loan issued pursuant to this section unless and until the balance of the principal and interest for the loan is repaid in full at the time of the refinancing; but these community-based housing projects may be refinanced if the financing would result in a reduction of costs paid by the commonwealth and any such refinanced loan shall be due and payable on a date no later than the date on which the original loan was due and payable, except in accordance with clause (4), or is necessary to effect extraordinary repairs or maintenance to be approved by the commissioners of mental retardation, or mental health, as appropriate, and the director of the department of housing and community development.

(e) Notwithstanding any other

general or special law to the contrary, in the case of (i) integrated housing in which community-based housing units described in this section constitute at least 30

percent of the overall number of housing units in a project or (ii) any other community-based housing described in this section, within 120 days after the expiration of affordability restrictions on housing assisted under this section, the department or its assignee, who is a qualified developer selected pursuant to the terms of this section under the guidelines of the department, shall have an option to purchase any such property under section 64.

(f) These loans shall be provided only for projects conforming to this section. Such housing shall remain affordable for not less than 40 years.

(g) These loans shall be issued in accordance with an enhancing community-based services plan prepared by the secretary of health and human services, reviewed and approved by the director of the department, and filed with the secretary for administration and finance and the house and senate committees on ways and means.

Section 62. (a) The department shall administer a Housing Innovations Fund Program for the purpose of facilitating the creation and retention of alternative forms of rental and ownership housing. Such forms of housing shall include, but not be limited to: single room occupancy units; limited equity cooperative housing; transitional housing for the homeless; battered women's shelters; mutual housing; housing acquired by nonprofit entities pursuant to Title II of the National Emergency Low Income Housing Preservation Act of 1987 and Title VI of the National Affordable Housing Act of 1990; employer assisted housing; lease to purchase housing; housing produced pursuant to a court approved receivership; innovative forms of housing which seek to mitigate the adverse impact on housing affordability in communities with high concentrations of college or university students;

(b) The department may enter into contracts for state financial assistance in the form of grants or loans by the commonwealth acting by and through the department. Grants made pursuant to this section shall be made only to public or quasi-public agencies. Projects under this section may include joint projects between municipalities or housing development agencies and institutions of higher education designed to create or preserve affordable units within those areas, and other innovative forms of housing.

(c) Not less than 50 per cent of the beneficiaries of housing under this section shall be persons whose income is not more than 80 per cent of the area median income as determined from time to time by the United States Department of Housing and Urban Development, and not less than 25 per cent of the beneficiaries of such housing shall be persons whose income is not more than 30 per cent of the area median income as determined from time to time by the United States Department of Housing and Urban Development. The department shall give preference to those projects that provide transitional and permanent housing for homeless individuals and families and disabled persons.

(d) The department shall administer this loan program through contracts with authorities, which shall be limited to housing authorities and redevelopment authorities duly organized and existing in accordance with this chapter, the Massachusetts Housing Finance Agency, a body politic and corporate entity established by chapter 708 of the acts of 1966, the Community Economic Development Assistance Corporation, a body politic and corporate entity established by chapter 40H, and the Massachusetts Development Finance Agency, a body politic and corporate entity established by chapter 23G. These loan-issuing authorities may develop or finance these forms of housing, or

may enter into subcontracts with non-profit organizations established pursuant to chapter 180 or organizations in which such non-profit corporations have a controlling financial or managerial interest. Loans issued directly or indirectly by these organizations shall be subject to the department's review and approval.

(e) Loans issued pursuant to this section shall be subject to the following provisions:

(1) these loans shall be limited to not more than 50 per cent of the financing of the total development costs;

(2) these loans shall be issued only when any contract or agreement for the use of the property for the purposes of such housing provides for the recording of a restriction in the registry of deeds or the registry district of the land court of the county in which the affected real property is located, for the benefit of the departments, running with the land, that the land be used for the purpose of providing alternative forms of rental and ownership housing. The property shall not be released from such restrictions until the balance of the principal and interest for the loan is repaid in full or until a mortgage foreclosure deed is recorded;

(3) these loans shall be issued for a term of up to 30 years, during which time repayment may be deferred by the loan issuing authority unless at the end of any fiscal year, cash collections from all sources in connection with a community-based housing project, except for contributions, donations, or grant moneys, exceed 105 per cent of cash expenditures on behalf of the project, including debt service, operating expenses, and capital reserves, in which event the excess cash shall be paid to the commonwealth within 45 days of the end of that fiscal year, payable first to interest due under the loan and

thereafter to principal advanced pursuant to the loan, provided, that if on the date these loans become due and payable to the commonwealth an outstanding balance exists, and if, on that date, the department of housing and community development determines that there still exists a need for this housing and that there is continued funding available for the provision of services to the development, the department may, by agreement with the owner of the development, extend the loans for such periods, each period not to extend beyond 10 years, as the department determines. The project shall continue to remain affordable housing for the duration of the loan term, as extended, as set forth in the contract or agreement entered into by the department. If the terms of repayment detailed in this section would cause a project authorized by this section to become ineligible to receive federal funds which would otherwise assist in the development of that project, the department may waive the terms of repayment which would cause the project to become ineligible;

(4) interest rates for these loans shall be fixed at a rate, to be determined by the director of the department;

(5) housing projects developed pursuant to this section shall not be refinanced during the term of any loan issued pursuant to this section unless and until the balance of the principal and interest for the loan is repaid in full at the time of the refinancing; but these projects may be refinanced if the financing would result in a reduction of costs paid by the commonwealth and any such refinanced loan shall be due and payable on a date no later than the date on which the original loan was due and payable, except in accordance with clause (3), or is necessary to effect extraordinary repairs or maintenance to be approved by the director of the department;

(6) the department shall take due consideration of a balanced geographic plan for such alternative forms of housing when issuing such loans.

(f) Notwithstanding any other general or special law to the contrary, within 120 days after the expiration of affordability restrictions on housing assisted under this section, the department or its assignee, who is a qualified developer selected pursuant to the terms of this section under the guidelines of the department, shall have an option to purchase any such property under section 64.

(g) These loans shall be provided only for projects conforming to this section. Such housing shall remain affordable for not less than 40 years.

(h) The department shall adopt regulations for the implementation of the housing loan program authorized by this section.

Section 63. (a) The department shall administer under this section a housing stabilization and investment program, in this section called the program.

(b) The department may enter into contracts for state financial assistance in the form of grants or loans by the commonwealth acting by and through the department for projects undertaken for the program. The department shall be the sole administrator of the program and shall ensure that funds are distributed in a balanced fashion in urban, suburban, and rural areas of the commonwealth with a particular emphasis on the local and regional need for affordable housing for the purpose of undertaking projects to develop and support affordable housing developments and homeownership affordability, through the acquisition, preservation and rehabilitation of affordable housing. The program may include assistance for projects to stabilize and promote reinvestment in cities and towns including, but not limited to, acquisition, rehabilitation and preservation

of foreclosed and distressed properties, down-payment assistance in the form of matching funds for employer assisted housing programs and any other techniques necessary to achieve such reinvestment. Assistance provided through the program may be made in a manner which qualifies the assistance as a matching contribution under Section 220 of the HOME Investment Partnership Act, Title II of the Cranston-Gonzalez National Affordable Housing Act, including, in the case of assistance provided in the form of a loan, a commitment to repay such loan to the commonwealth's HOME Investment Trust Fund established pursuant to Section 92.5000(o) of the regulations of the United States Department of Housing and Urban Development. Loans may be provided to any agency, department, board, commission, authority or instrumentality of the commonwealth or any political subdivision thereof, to housing authorities, nonprofit agencies certified by the United States Department of Housing and Urban Development as community housing development organizations, community development corporations and limited equity cooperative housing corporations established pursuant to chapter 157B of the General Laws. Such recipients may enter into subcontracts to carry out the purposes of such contract with other for-profit or not-for-profit organizations.

(c) Before providing assistance, the department shall find that: (1) the housing would not, by private enterprise alone and without government assistance, be available to lower income families and individuals; (2) the amount of assistance appears to be the minimum amount necessary to make the housing development feasible; (3) with respect to rental housing, the operations of the owner and its articles of organization and by-laws and any changes to either shall be subject to regulation by the department; and (4) the housing shall remain affordable for its useful life as determined by the department. The

housing shall be considered affordable if, during the first 40 years after assistance is first provided, substantially all of the assisted units shall be rented to or owned by families and individuals whose income at initial occupancy is equal to or less than 80 per cent of the median income as determined by the secretary of Housing and Urban Development for the federal housing programs and that thereafter such units shall be rented or sold, subject to such restrictions on appreciation as determined by the department to be reasonable and necessary to maintain long term affordability, to families or individuals at incomes at or below 100 per cent of the median income.

(d) If a property was previously leased or sold to an owner by a city, town or housing authority, before any sale or transfer or other disposition of any such housing assisted under this section, that owner shall offer the city, town or housing authority or its assignee, who shall be a qualified developer selected pursuant to the terms of this section under the guidelines of the department, a first refusal option to meet a bona fide offer to purchase said property. The owner shall provide to the city, town or housing authority written notice by regular and certified mail, return receipt requested, of the owner's intention to sell, transfer or otherwise dispose of the property. The city, town or housing authority shall hold such first refusal option for the first 60 days after receipt of the owner's notice of intent to transfer the property, and otherwise section 64 shall apply to the owner and to the city, town or housing authority. If the city, town, or housing authority shall fail to exercise the option within 60 days, an owner shall thereafter offer the department or its assignee, who shall be a qualified developer selected pursuant to the terms of this section under the guidelines of the department, a first refusal option to meet a bona fide offer to purchase the property under section 64.

(e) Funds provided for the program may be expended to stabilize and promote reinvestment, through homeownership, in areas the department has determined to be weak markets as indicated by a high concentration of assisted rental housing or low rate of homeownership or low median family income or low average sales prices or high levels of unpaid property taxes or vacant or abandoned buildings. After making the finding, the director may waive requirements of this section found to be inconsistent with promoting homeownership in weak markets and take other steps necessary to promote homeownership in the weak market including, but not limited to, reducing the length of required affordability to not less than 10 years and permitting the funded property to be purchased by a household whose income at the time of purchase does not exceed 135 per cent of the area median income, adjusted for family size, or both; however, the purchaser must own and occupy the property as his primary residence.

(f) Funds provided for the program shall be used for the purpose of providing financial support for developing residential housing units within neighborhood commercial areas including, but not limited to, those areas designated as Main Street areas. The developments may include projects which have residential units above commercial space and shall be located in areas characterized by a predominance of commercial land uses, a high daytime or business population or a high concentration of daytime traffic and parking;

(g) Funds provided for the program may be used for the purpose of providing down payment and closing-cost assistance for home buyers, or for security deposits and first or last month's rent for tenants, who are receiving matching funds for such purposes from their employers. The department may waive requirements in this section found to

be inconsistent with promoting employer-assisted housing, which shall be limited to reducing the length of required affordability for such housing to not less than 5 years and permitting assistance to be provided to a household whose income at the time of purchase or initial tenancy does not exceed 110 per cent of the area median income adjusted for family size; however the purchaser or tenant must own or rent and occupy the property as his primary residence.

(h) Funds provided for the program may be used for grants to cities and towns to assist with the costs of demolishing certain privately owned vacant and abandoned buildings that have been found to be uninhabitable and not economically feasible to rehabilitate, and which the city or town may demolish pursuant to sections 127A and 127B of chapter 111 or sections 6 to 9, inclusive, of chapter 143 and the regulations adopted under each of those chapters or which have been taken by the city or town for taxes. Any such demolition shall be undertaken in accordance with a neighborhood revitalization plan adopted by the city or town after a public hearing and after approval by the department which provides for the rehabilitation and development of housing in the areas in which such demolition is being undertaken. The department shall adopt regulations to implement this subsection including, but not limited to, grants to cities and towns for demolition of certain vacant and abandoned buildings and procedures for neighborhood revitalization plans.

(i) Funds provided for the program may be used for a revolving rehabilitation loan program to support the revitalization of certain abandoned or severely distressed privately-owned residential housing for which a court appointed, nonprofit receiver has been selected pursuant to chapter 111. This program may include activities necessary to

make essential repairs and to pay operating expenses necessary to maintain habitability of such housing units in order to prevent abandonment and deterioration of such housing in primarily low and moderate income neighborhoods. The department may administer these loans through contracts with the Community Economic Development Assistance Corporation, a body politic and corporate entity established in chapter 40H of the General Laws, and through contracts with the Massachusetts Housing Partnership Fund, an instrumentality of the commonwealth established in section 35 of chapter 405 of the acts of 1985. The recipients may enter into subcontracts to administer the purposes of such contracts with other for-profit or nonprofit organizations.

(j) The department may provide loans under the program to nonprofit developers for the acquisition of property to provide or preserve affordable housing. The department may administer these loans through contracts with the Community Economic Development Assistance Corporation. This program of loans may include acquisition, financing and other holding costs, interim management and operating costs and may also be used by the Community Economic Development Assistance Corporation to secure, collateralize or reserve against other financing obtained by the Community Economic Development Assistance Corporation to support such costs. Not less than 50 per cent of the beneficiaries of such housing shall be persons of income not more than 80 per cent of the area median income as determined from time to time by the United States Department of Housing and Urban Development, and not less than 25 per cent of the beneficiaries of such housing shall be persons whose income is not more than 30 per cent of the area median income as determined from time to time by the United States Department of Housing and Urban Development.

(k) Funds provided for the program may be used to support the rehabilitation of owner-occupied 1 to 4-family properties and the acquisition and rehabilitation of such properties by persons of low or moderate income. The program may include, but shall not be limited to, direct loans, loan guarantees and loan loss reserves; provided, however, that the objective of such program shall include the following: (1) projects shall rely, to the greatest extent possible, on bank financing and other taxable financing to support the costs of such acquisition and rehabilitation; (2) coordinating the delivery of such financing and related rehabilitation services with cities and towns that provide such assistance utilizing federal community development block grants, federal HOME funds, and other resources; (3) expediting and simplifying the process by which home buyers may obtain financial and technical assistance for such acquisitions and rehabilitation; and (4) ensuring that adequate provisions are in place to assure that rehabilitation is completed in a timely and professional manner and to protect homeowners from excessive acquisition and rehabilitation costs.

(l) Funds provided for the program may be used for deferred payment second mortgage loans to support the acquisition and rehabilitation or new construction of small multifamily rental properties pursuant to the Permanent PLUS Program to be administered by the department through contracts with the Massachusetts Housing Partnership Fund, an instrumentality of the commonwealth established by section 35 of chapter 405 of the acts of 1985. The Massachusetts Housing Partnership Fund shall enter into binding agreements to ensure that at least 20 per cent of the units are affordable to persons whose income is less than 50 per cent of the area median income, at least 40 per cent of the units are affordable to persons whose income is less than 60 per cent of the

area median income, or at least 50 per cent of such units are affordable to persons whose income is less than 80 per cent of the area median income, as such incomes are determined from time to time by the United States Department of Housing and Urban Development.

(m) Funds provided for the program may be used for the purposes of the Soft Second Mortgage program described in item 3322-8880 of section 2 of chapter 110 of the acts of 1993.

(n) Funds provided for the capital improvement and preservation program shall be used for the preservation of affordable housing developments which are or were subject to prepayment or payment of a state or federally assisted mortgage or which are receiving project-based rental assistance under section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, and such rental assistance is expiring, or which have received other project based federal or state subsidies which are terminating or have terminated. Property eligible for assistance shall include housing where the prepayment or payment of a state or federally-assisted mortgage or the expiration of federal low income housing tax credits or other federal or state subsidies would lead or has led to the termination of a use agreement for low income housing or in which a project-based rental assistance contract is expiring or has expired. The department, in consultation with nonprofit organizations, the Massachusetts Housing Finance Agency, the Community Economic Development Assistance Corporation and the Massachusetts Housing Partnership Fund, shall identify those projects at greatest risk of prepayment, payment, termination of subsidies and use restrictions, or non-renewal of rental assistance. The department shall

base funding priority on at-risk criteria to be set forth in guidelines issued by the department.

(o) Any money received from loan repayments pursuant to this section shall be deposited in the HOME Investment Trust Fund referred to in section 13 of chapter 257 of the acts of 1998 and may be expended by the department solely for the purposes set forth in this section.

(p) The department may adopt regulations to implement this section.

Section 64. (a) This section applies whenever the department or its assignee has an option to purchase or a right of first refusal to purchase property under sections 60 to 63, inclusive.

(b) The department shall have an option to purchase any such property at its current appraised value reduced by any remaining obligation of the owner upon the expiration of the affordability restrictions. The department or its assignee shall hold such purchase option for the first 120 days after the expiration of the affordability restrictions. Failure to exercise the purchase option within 120 days after the expiration of the affordability restriction shall constitute a waiver of the purchase option by the department or its assignee. Two impartial appraisers shall determine, within 60 days after the expiration of these affordability restrictions, the current appraised value in accordance with recognized professional standards. Two professionals in the field of multi-unit residential housing shall select each such appraiser. The owner and the department, respectively, shall designate such professionals within 30 days after the expiration of these affordability restrictions. If there is a difference in the valuations provided by the appraisals, the 2 valuations shall be added together and divided by 2 to determine the

current appraised value of the property. No sale, transfer or other disposition of such land shall be consummated unless and until either this purchase option period shall have expired or the owner shall have been notified in writing by the department or assignee in question that the option will not be exercised. This option may be exercised only by written notice signed by a designated representative of the department or its assignee, mailed to the owner by certified mail at such address as may be specified in his notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the purchase option has been assigned to a qualified developer selected pursuant to this section under guidelines issued by the department, the written notice shall state the name and address of the developer and the terms and conditions of the assignment.

(c) Before any sale or transfer or other disposition of any such housing where the department has not previously exercised an option to purchase, an owner shall offer the department or its assignee, who shall be a qualified developer selected pursuant to this section under the guidelines of the department, a first refusal option to meet a bona fide offer to purchase the property. The owner shall provide to the department or its assignee written notice by regular and certified mail, return receipt requested, of the owner's intention to sell, transfer or otherwise dispose of the property. The department or its assignee shall hold such first refusal option for the first 120 days after receipt of the owner's notice of intent to transfer the property. Failure to respond to the written notice of the owner's intent to sell, transfer or otherwise dispose of the property within 120 days after the receipt thereof shall constitute a waiver of the right of first refusal by the department. No sale, transfer or other disposition of such land shall be consummated

unless and until either this first refusal option period shall have expired or the owner shall have been notified in writing by the department or assignee in question that the option will not be exercised. This option may be exercised only by written notice signed by a designated representative of the department or its assignee, mailed to the owner by certified mail at such address as may be specified in his notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the first refusal option has been assigned to a qualified developer selected pursuant to this section under guidelines issued by the department, the written notice shall state the name and address of the developer and the terms and conditions of the assignment.

(d) An affidavit before a notary public that he has so mailed this notice of intent on behalf of an owner shall conclusively establish the manner and time of the giving of such notice and such an affidavit, and such a notice that the option will not be exercised, shall be recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Each notice of intention, notice of exercise of the purchase option or first refusal option and notice that the purchase option or first refusal option will not be exercised shall contain the name of the record owner of the land and description of the premises to be sold or converted adequate for identification thereof and each such affidavit before a notary public shall have attached to it a copy of the notice of intention to which it relates. Such notices of intention shall be duly mailed to the parties above specified if addressed to them in care of the keeper of records for the party in question. Upon notifying the owner in writing of its intention to pursue its purchase option or first refusal option during this 120-day period, the

department or its assignee shall have an additional 120 days, beginning on the date of the termination of the purchase option period or first refusal option period, to purchase the property. Such time periods may be extended by mutual agreement between the department or its assignee and the owner of the property. Any such extension agreed upon shall be recorded in the registry of deeds or the registry district of the land court of the county in which the affected real property is located.

(e) Within a reasonable time after request, the owner shall make available to the department or its assignee any information that is reasonably necessary for the department to exercise its rights.

SECTION 5. The costs of professional personnel, including personnel categorized under collective bargaining unit 9, directly involved in the planning, design, and construction of projects funded by section 2, including costs incurred pursuant to section 5D of chapter 29 of the General Laws, may be charged to the authorizations in said section 2. The director of housing and community development shall file an annual spending plan with the fiscal affairs division, the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets which details, by subsidiary, all administrative costs charged to authorizations made pursuant to this act.

SECTION 6. Projects funded by items in section 2 shall demonstrate consistency with sustainable development principles as defined by the department of housing and community development.

SECTION 7. Notwithstanding any general or special law to the contrary, the unexpended and unencumbered balances of the bond-funded authorizations in the following accounts shall cease to be available for expenditure 90 days after the effect date

of this act: 3722-8865, 3722-8871, 3722-8872, 3722-8873, 3722-8875, 3722-8891, 3722-8892, 3722-8896, 4000-7998, 4000-8200, 4000-8201, 4000-8202, 7004-0021, 7004-0022, 7004-6666, 7004-7011, 7004-7012, 7004-7013, 7004-7014, 7004-7015, 7004-7016, 7004-7018, 7004-8984, 7004-8985